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10/607,927	06/27/2003	Vineet Gupta	0026-0153	8649

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HARRITY SNYDER, LLP		PHAM, KHANH B
11350 Random Hills Road		
SUITE 600	ART UNIT	PAPER NUMBER
FAIRFAX, VA 22030	2166	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _12 September 2007_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _See Continuation Sheet_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1,6-12,17-22,24,25,29-40,42,45-58,60,61,64-69,72-76,78,79 and 83-89_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _8/2/2007_.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

Continuation of Disposition of Claims: Claims pending in the application are 1,6-12,17-22,24,25,29-40,42,45-58,60,61,64-69,72-76,78,79 and 83-89.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1, 6-11, 24-25, 29-40, 60-61, 64-68, and 78 are rejected under 35 U.S.C. 101

because the claimed invention is directed to non-statutory subject matter.

The claims lack the necessary physical articles or objects to constitute a machine

or a manufacture within the meaning of 35 USC 101. They are clearly not a series of

steps or acts to be a process nor are they a combination of chemical compounds to be

a composition of matter. As such, they fail to fall within a statutory category. They are, at

best, functional descriptive material *per se*.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3.   **Claims 1, 6-12, 17-22, 24-25, 29-40, 42, 45-58, 60-61, 64-69, 72-76, 78-79, 83-89** are rejected under 35 U.S.C. 102(e) as being anticipated by Zha (US 7,028,027 B1), hereinafter "**Zha**".

        As per claims 1, 24, Zha teaches a system comprising:

- "a country selector dynamically determining at least one preferred country applicable to search result responsive to a search query executed on information in a data repository and provided from a plurality of search result countries, the at least one preferred country being determined based on characteristics of the search query of the search result" at Col. 3 lines 5-67 and Col. 4 lines 15-35;

- "an interface characterizer determining the at least one preferred country using interface characteristics when the country selector is unable to determine the at least one preferred country based on characteristics of the search query or the search results, the interface characteristics comprising at least one country received by a user interface from which the search query was received" at Col. 6 lines 5-45;

- "a search result orderer determining an order for presenting the search results and adjusting the determined order for at least one of the search results among other ones of the search results based on whether the at least one of the search results is from the at least one preferred country" at Col. 3 lines 20-65;

- "a presenter representing the search results in the adjusted order" at Col. 3 line 51.

As per claim 6, Zha teaches the system of claim 1, further comprising: "an indexer ranking the search results" where "the search result orderer adjusts the ranking of the at least one of the search results based on whether that at least one of the search results is from the at least one preferred country" at Col. 3 lines 35-65.

As per claim 7, Zha teaches the system of claim 6, where: "the search result orderer demotes each search result from a country other than the at least one preferred country and promotes each search result from the at least one preferred country by at least one position" at Col. 3 lines 52-67.

As per claim 8, Zha teaches the system of claim 1, further comprising: "a scorer assigning a numerical score to the search results, where the search result orderer adjusts the numerical score of the at least one of the search results from the at least one preferred country" at Col. 3 lines 35-50.

As per claim 9, Zha teaches the system of claim 8, where "the search result orderer increases the numerical score assigned to the search results from the at least one preferred country and maintains the numerical score assigned to the search results from a country other than the at least one preferred country" at Col. 3 lines 35-50.

As per claim 10, Zha teaches the system of claim 8, where:

- "the country selector selects at least one less preferred country" at Col. 8 lines 35-60;

- "the search result orderer adjusts the numerical score, comprising at least one of increasing the numerical score assigned to the search results from the at least on less preferred country and maintaining the numerical score assigned to the search results from a country other than the at least one preferred country" at Col. 5 lines 1-20.

As per claim 11, Zha teaches the system of claim 8, where "the search result orderer sorts at least some of the search results with the adjusted numeric scores" at Col. 5 lines 10-15.

As per claim 12, Zha teaches a method comprising:.

- "receiving a query" at Col. 1 lines 50-65;

- "performing a search based on the search query to identify search results from a plurality of search result countries" at Col. 1 lines 50-65;

- "dynamically determining at least one preferred country applicable to the search results based on characteristics of the search query or the search result" at Col. 4 lines 5-65;

- "ordering the search results" at Col. 3 lines 20-50;

- "adjusting the order of at least one of the search results among other ones of the search results based on whether the at least one of the search results is from the at least one preferred country" at Col. 3 lines 15-50

- "presenting the search results in the adjusted order" at Col. 3 line 51.

As per claim 17, Zha teaches the method of claim 12, further comprising: "ranking the search results" and "ordering at least some of the ranked search result relative to at least one preferred country" at Col. 3 lines 35-65.

As per claim 18, Zha teaches the method of claim 17, further comprising "demoting each search result from a country other than the at least one preferred country and promoting each search result from the at least one preferred country by at least one position" at Col. 3 lines 35-65.

As per claim 19, Zha teaches the method of claim 12, further comprising "assigning a numerical score to the search results and adjusting the numerical score of at least some of the search results from the at least one preferred country" at Col. 5 lines 1-20.

As per claim 20, Zha teaches the method of claim 19, further comprising: "increasing the numerical score assigned to the search results from the at least one

preferred country and maintaining the numerical score assigned to the search results

from a country other than the at least one preferred country" at Col. 5 lines 1-20.

As per claim 21, Zha teaches the method of claim 19, further comprising:

"determining at least one less preferred country and adjusting the numerical score

comprising decreasing the numerical score assigned to the search results from the at

least one less preferred country and maintaining the numerical score assigned to the

search results from a country other than the at least one preferred country" at Col. 3

lines 35-65.

As per claim 22, Zha teaches the method of claim 19, further comprising:

"sorting at least some of the search results with adjusted numerical scores" at Col. 3

lines 45-50.

As per claim 25, Zha teaches a system comprising:

- "a parser receiving a search query" at Col. 1 lines 50-65;

- "an indexer executing a search by evaluating the search query against

  information from a plurality of countries that is maintained in a searchable data

  repository, and identifying search results based on the search" at Col. 1 lines 50-

  65;

- "a country promoter dynamically determining at least one preferred country

  applicable to the search results based on characteristics of the search query,

ordering the search results, and adjusting the ordering of at least one of the search results among other ones of the search results based on whether the at least one of the search results is from the at least one preferred country" at Col. 3 lines 15-65 and Col. 6 lines 5-32;

- "a user interface characterizer determining a country received by a user interface" at Col. 6 lines 10-20;

- "a country selector selecting the country as the at least one preferred country when the country promoter is unable to determine the at least one preferred country based on characteristic of the search query" at Col. 4 lines 5-65.

As per claim 29, Zha teaches the system of claim 25, further comprising: "a search result orderer ordering the search results based on a match of a country of the search results to the at least one preferred country" at Col. 3 lines 25-65.

As per claim 30, Zha teaches the system of claim 29, where: "the search result orderer demotes the search results from a country other than the at least one preferred country by a predefined shifting factor" at Col. 3 lines 50-65.

As per claim 31, Zha teaches the system of claim 30, wherein the predefined shifting factor substantially equals two" at Col. 5 lines 45-65.

As per claim 32, Zha teaches the system of claim 29, where: "the search result orderer promotes the search results from a country other than the at least one preferred country by a predefined shifting factor" at Col. 3 lines 50-65.

As per claim 33, Zha teaches the system of claim 25, further comprising: "a scorer ordering each of the search results by a degree of match to the information in the searchable data repository" at Col. 5 lines 1-20.

As per claim 34, Zha teaches the system of claim 25, further comprising: "a country detector detecting a country associated with at least one of the search results" at Col. 7 lines 40-50.

As per claim 35, Zha teaches the system of claim 34, further comprising: " a hyperlink analyzer examining anchor text of hyperlinks to the search result document, text near the hyperlinks, or countries of the web pages with hyperlinks to the search result document" at Col. 7 lines 1-5.

As per claim 36, Zha teaches the system of claim 25, wherein "the search ·results are assigned a numerical score, the system further comprising: a search result orderer increasing the numerical score assigned to at least some of the search results from the at least one preferred country" at Col. 5 lines 1-20.

As per claim 37, Zha teaches the system of claim 36, wherein the numerical score is adjusted in accordance with the formula: "$S_i = S_i +1 / 2$ where S_i comprises the numerical score for each search result i" at Col. 5 lines 60-65.

As per claim 38, Zha teaches the system of claim 25, wherein the search results are assigned a numerical score, the system further comprising: a search result orderer decreasing the numerical score assigned to at least some of the search results from the at least one preferred country" at Col. 3 lines 35-65.

As per claim 39, Zha teaches the system of claim 25, further comprising "a presenter presenting the search results in the adjusted order" at Col. 3 line 51.

As per claim 40, Zha teaches the system of claim 39, where "the presenter performs at least one of controls enablement of presentation of at least some of the search results for each of the at least one preferred country, groups together at least some of the search results for each of the at least one preferred country, or arranges at least some of the search results for each of the at least one preferred country next to at least some of the search results for at least one country other than the at least one preferred country prior to presentation to the user" at Col. 3 lines 35-51.

Claims 42, 45-58, 60-61, 64-69, 72-76, 78-79, 83-89 recite similar limitations discussed above and therefore are rejected by the same reasons.

Double Patenting

4.   The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees.   A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.
Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5.   Claims 1, 12, 25, 42, 61, 69, 78, are provisionally rejected on the ground of

nonstatutory obviousness-type double patenting as being unpatentable over claims 5,

18, 30, 52, 75, 87, 100 of copending Application No. 10/407,476 in view of Zha

(US7,028,027 B1).

Although the conflicting claims are not identical, they are not patentably distinct

from each other because claims of instant application are essentially the same as

claims of copending application 10/407,476, except that it recites "preferred country"

instead of "preferred language". However, the relationship between "country" and

"language" are well known, one can be used to infer another, and is often used

interchangeably, as shown in Zha at Col. 8 lines 30-65. For example, user's selection of

Japanese as preferred language or Japan as preferred country will have the same

effect. Thus, it would have been obvious to replace "preferred language" with "preferred

country" without changing the scope of the claimed invention.

This is a provisional obviousness-type double patenting rejection.


Response to Arguments

6.   Applicant's arguments filed September 12, 2007 have been fully considered but

they are not persuasive. The examiner respectfully traverses applicant's arguments.

7.   Regarding the 35 U.S.C §101 rejection to claims **1, 6-11, 24-25, 29-40, 60-61,**

64-68, and 78, Applicant argued that the claims 1, 25, 61 recite "A system implemented

within a computing device" make the claims statutory. The examiner respectfully

disagrees. The amended claims are still nonstatutory because: (1) The statutory

category of the claimed subject matter is unclear, it is unclear whether the claims are

directed to a process, machine or manufacture. Even though the claims recite "a

computing device" in the preamble, the claimed subject matter is not directed to the

computing device but to "a system". (2) The body of the claims recite components of the

system wherein "each component is a computer program, procedure or process written

as source code in a conventional programming language" (See Specification page 9,

lines 10-25). The claimed system is therefore rejected as being **software per se**.

Similarly, each of the means of claims 24, 60, and 78 is computer program component

per se and is therefore rejected by the same reason.

8.   Regarding the 35 U.S.C §102 rejection to claims **1, 6-12, 17-22, 24-25, 29-40,**

42, 45-58, 60-61, 64-69, 72-76, 78-79, 83-89 based upon **Zha**, Applicant's.argument

have been fully considered but they are not persuasive. The examiner respectfully

traverses applicant's arguments.

9.   Regarding claims 1, 12, 24, applicant argued that Zha et al. does not disclose or

suggest "a country selector dynamically determining at least one preferred country

applicable to search results generated responsive to a search query executed on

information in a data repository and provided from a plurality of search result countries,

the at least one preferred country being determined based on characteristics of the

search query or the search results". On the contrary, Zha teaches at Col. 4 lines 5-35

and Figs. 2A-C the step of determining at least one preferred country based on

characteristic of the search results by examining the documents contained in the search

result. Particularly, as detailed in Fig. 2, reproduced below, Zha first determines if the

documents is associated with a region (i.e. "country") at 202, and then examines the

weight associated with the region at 204, the most significant weight that is associated

with a region (i.e, "preferred country") is selected at step 206 and is used to adjust the

ranking of the search result at 218. Zha therefore teaches that the preferred country is

determined based on characteristics of **the search results**.

FIG. 2A

FIG. 2C
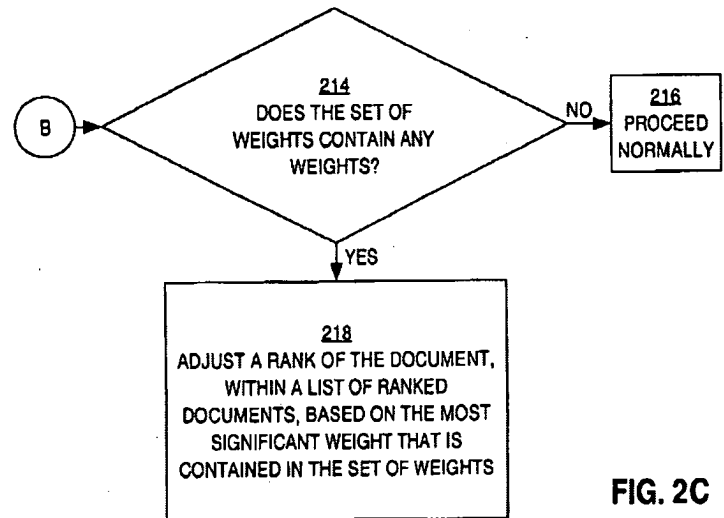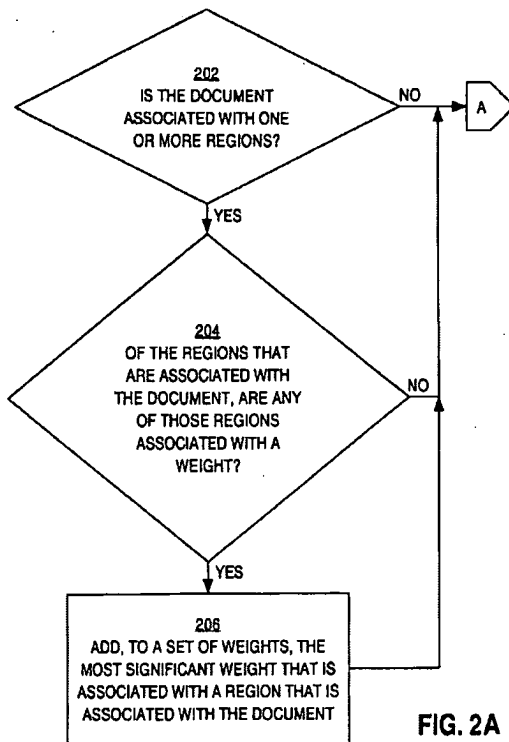
Regarding claims 25, 42, applicant argued that Zha does not disclose "a country promoter dynamically determining at least one preferred country applicable to the search results based on characteristics of the search query". On the contrary, Zha teaches at Col. 6 lines 5-32, reproduced below, the search interface which allows user of the search engine to indicate on an HTML form a specific language (or region), and the search engine will determine a preferred language applicable to the search result by examining the characteristic of the search query including the selected languages/regions sent to the search engine via the HTML search form. The examiner therefore interprets "search query" as information sent by a user to a search engine to retrieve information.

For example, **a search engine may receive, through a user
interface, one or more classification values that have been
selected by a user**. For a more specific example, a user may
select a control, on an **HTML form**, that indicates by its
selection that **the user is primarily interested in documents
that are associated with the German language**. For another
example, a user may select a control that indicates that the
user is chiefly interested in documents that are associated with
Switzerland.

10.   Regarding the obvious type double patenting rejection to claims 1, 12, 25, 42, 61,

69, and 78, since the Terminal Disclaimer has not been received by the Office, The

rejection is therefore maintained.

In light of the foregoing arguments, the 35 U.S.C 102 rejection is hereby

sustained.

Conclusion

11.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh B. Pham whose telephone number is (571) 272-4116. The examiner can normally be reached on Monday through Friday 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on (571) 272-3978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Khanh B. Pham
Primary Examiner
Art Unit 2166

January 18, 2008